

UNITED STATES DISTRICT COURT

DISTRICT OF MAINE

INSTRUCTIONAL HANDOUT FOR PRO SE LITIGANTS

INTRODUCTION

This handout has been prepared to help you, a person without a lawyer (sometimes called a "pro se litigant"), achieve a speedy, inexpensive, fair and just resolution of each case. It will alert you to some of the procedures you must know and to some of the standards of practice you are expected to follow in this Court. However, you should understand that this outline is only a guide. It will not answer many of your questions regarding federal civil practice and is no substitute for statutes, rules and caselaw.

Being in a lawsuit without a lawyer is hazardous and unwise. The Federal Rules of Civil Procedure and the Local Rules of the District of Maine, which guide and govern the judges, lawyers, and parties in this Court, are numerous and complex. The attorneys who practice in this Court are skilled and experienced lawyers who have a comprehensive understanding of the requirements of federal trial practice. People who decide to proceed without a lawyer are presumed to have read the rules and to have a full understanding of them.

If you decide that you do not wish to represent yourself but you do not know a lawyer who can assist you, you should consult the Yellow Pages of your telephone directory or call the Maine State Bar Association Lawyer Referral Service (207-622-1460). If your income is within certain guidelines, you may be eligible for free or low cost legal assistance from an office of Pine Tree Legal Assistance, Inc. or from the Volunteer Lawyers Project of the Maine Bar Foundation.

If you are 60 or more years old, you may be eligible for legal assistance from an office of the Legal Services for the Elderly, Inc.

You should know that although an individual may represent himself or herself, only an attorney who is authorized to practice in this court may represent any other person, corporation, or partnership.

DISTRICT OF MAINE

The United States District Court for the District of Maine has offices in Portland and in Bangor. Two district judges, one full-time magistrate judge and one part-time magistrate judge hold court in Portland and one district judge and one full-time magistrate judge hold court in Bangor. However, all the judicial officers have district wide powers and occasionally they alternate their locations of holding court.

The judicial officers in the District of Maine are:

District Judges:

Portland

Gene Carter

D. Brock Hornby, Chief Judge

Bangor

George Z. Singal

Magistrate Judges:

Portland

David M. Cohen

Bangor

Margaret Kravchuk

Clerk of Court/Part-time Magistrate Judge

William S. Brownell

The magistrate judges are appointed by the district judges to assist in the handling of cases. Both full-time magistrate judges can perform the full range of duties permitted by law, including holding jury and non-jury trials. Litigants are also encouraged to consent to trial before the

magistrate judges. A consent to trial before a magistrate judge will ordinarily mean that the case will be assigned for trial on a specific date, which can be an attractive alternative to having the case otherwise placed on a long list of cases for a district judge.

Cases are filed in either Bangor or Portland depending on the county in which the lawsuit arises. Cases arising out of Aroostook, Franklin, Hancock, Kennebec, Penobscot, Piscataquis, Somerset, Waldo, and Washington counties are filed and ordinarily tried in Bangor. Those cases arising out of Androscoggin, Cumberland, Knox, Lincoln, Oxford, Sagadahoc and York counties are filed and tried in Portland. However, an exception to the filing rule provides that Knox County cases brought by inmates at the Maine State Prisons in Thomaston and Warren must be filed in Bangor and are automatically referred to the magistrate judge in Bangor. Another exception provides that those cases in which the State of Maine or an officer or employee of the State is a named party are to be randomly assigned among all the district judges.

Each judge oversees his own caseload. A team of case managers is assigned to each district judge and the team is responsible for recording the pleadings and court proceedings on the docket, scheduling conferences and trials, and performing courtroom work for that judge. All case related inquiries should be directed to one of the deputy clerks to whom the case is assigned. It is inappropriate to write or telephone directly the judge assigned to your case.

The Clerk's Office addresses and phone numbers are:

Bangor cases:

Clerk, U.S. District Court
202 Harlow Street, Room 357
P.O. Box 1007
Bangor, Maine 04330
(207) 945-0575

Portland cases:

Clerk, U.S. District Court
156 Federal Street
Portland, Maine 04101
(207) 780-3356

PRACTICES AND PROCEDURES

I. FILING A COMPLAINT

(a). A civil lawsuit is begun by filing a "complaint" with the Clerk together with a \$150.00 filing fee and a properly completed Civil Cover Sheet form (JS 44C). Checks or money orders must be made payable to "Clerk, U.S. District Court". If you do not have the financial resources to pay the filing fee, you may request the Court's permission to file without prepayment of fees. This is known as filing in forma pauperis. Applications to proceed in forma pauperis are available in the Clerk's office.

(b). The function of the complaint is to tell the Court and the party being sued (the defendant) the reason for the lawsuit, and what relief the party bringing the suit (the plaintiff) desires. A complaint is made up of four main parts:

- a. The names and addresses of the parties
- b. The basis for federal court jurisdiction
- c. The allegations or claims made against the defendant(s)
- d. The relief sought from the court

Each paragraph in the complaint must be separately numbered.

(c). There is no jury fee in federal court. However, if a jury trial is desired, a jury demand must be filed as a separate pleading at the outset or requested in the complaint and included in the title of the complaint. In some kinds of cases, such as tort actions against the United States, jury trials are not available.

(d). As provided in F.R.Civ.P 4(d), a plaintiff will ordinarily request that the defendant waive formal service (that is, the formal delivery of the complaint or other papers to the defendant, officially notifying the defendant of the action). Generally, a plaintiff will send the defendant a copy of the complaint together with a Notice of Lawsuit and Request for Waiver.

(The notice and waiver forms are available in the Clerk's office). The defendant will sign the waiver of service and return it to the plaintiff who will file it with the court. The action will thereafter proceed as if service of a summons and complaint had been made. If the defendant does not waive service, the plaintiff must complete a summons, present it to a deputy clerk to sign and seal, and then have it served upon the defendant.

(e). The correct heading for a complaint is:

UNITED STATES DISTRICT COURT	
	DISTRICT OF MAINE
(NAME),)
Plaintiff(s))
)
v.) CIVIL ACTION NO. (#)
)
(NAME),)
Defendant(s))

COMPLAINT

(f). All parties must be listed in the heading of the complaint. The civil action number ("docket number") will be assigned by the Clerk after the complaint has been filed. The case number (for example, CIVIL NO. 00-0012 P-C) is broken down into four parts: the year the case was filed (e.g. 2000); the sequence of case (here, 12); whether the case is a Portland (P) or a Bangor (B) case; and the judge to which the case has been assigned: Carter (C), Hornby (H), or Singal (S).

(g). The party who is the defendant in a lawsuit, is the person against whom relief or recovery is sought. The defendant is required to file an answer to the complaint within 20 days after being served with the summons and complaint, or, if service of the summons was timely waived by the defendant, within 60 days after the date when the request for waiver was sent. The

United States or an officer or agency thereof shall file an answer within 60 days after the service of the complaint upon the United States Attorney. The answer is the formal written statement responding to the complaint setting forth the grounds for a defense.

II. GENERAL REQUIREMENTS

- (a). The original, signed version of all pleadings must be filed with the Court.
- (b). Each attorney's or pro se litigant's name must be typed or printed and signed on the last page of every pleading.
- (c). The title of each pleading must be included in the caption and the docket number must be written on each document.
- (d). In accordance with the requirements of F.R.Civ.P. 5, a copy of every pleading filed with the court must be served upon the attorney(s) for the opposing party. Service of every pleading subsequent to the original complaint may be made by delivering a copy to the party's attorney or by mailing it to the attorney. Additionally, all papers filed with the court must contain a certificate that service has been made upon all counsel of record in the case.
- (e). All pleadings must conform to the requirements of the Federal Rules of Civil Procedure and the Local Rules of this Court. Particular attention should be given to F.R.Civ.P. 11 which requires attorneys and pro se litigants to conduct a reasonable inquiry into the law and facts before signing pleadings and provides for the imposition of sanctions for filing frivolous cases or otherwise engaging in abusive litigation practices.